

CHAP. 55.]

THIRD SESSION.

237

for the sums so lent, and shall pay to the said Peter T. Curtenius, and the said person to be appointed a commissary to provide necessaries, severally, the monies so be taken on loan, in like manner as is herein before directed, with respect to the monies arising from the sales of forfeited estates. That the treasurer shall upon the warrant of the person administering the government of this State, advance as cash to the said Peter T. Curtenius and the person to be appointed commissary as aforesaid, severally, of the said certificates to such amount as shall be specified in each warrant, with blanks as to the date. That it shall be lawful for the said Peter T. Curtenius, and the said person so to be appointed commissary as aforesaid, to give the said certificates in payment for any goods wares and merchandizes which they may respectively purchase, and to fill up the blanks in the said certificates, with the day when they shall be respectively given in payment.

Advances
to persons
named.

And be it further enacted by the authority aforesaid, That if any person shall forge or counterfeit any such loan office certificate, or shall sell, negotiate or assign over, or tender for, or in payment at the treasury, any such forged or counterfeit certificate, knowing the same to be forged or counterfeit, the person so offending shall upon conviction suffer the like pains and penalties as in cases of felony without benefit of clergy.

Penalty
for count-
erfeiting,
etc.

CHAP. 55.

AN ACT for regulating the militia of the State of New York.

PASSED the 11th of March, 1780.

WHEREAS the wisdom and experience of ages point out a well regulated militia as the only secure means for defending a State against external invasions, and internal commotions and insurrections.

Preamble.

And whereas this, and the other United States of America, are now invaded by foreign enemies, and the safety of this State may be endangered by intestine commotions and insurrections.

And whereas it is therefore become the duty of the legislature of this State, to put the militia thereof, on such an establishment as will most effectually encourage a martial spirit among the people, provide for the internal and external security of the State, and enable it most vigorously to co-operate with the other United States, in a cause no less noble and exalted, than the defence of the common rights and liberties of America against hostile tyranny and oppression.

I. Be it therefore enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That every able bodied male person, (deserters from the enemy, not subjects of any of the United States, Indians and slaves excepted) residing within this State, from sixteen years of age to fifty, (except such persons as are herein after excepted) shall immediately after the passing this act, unless he shall heretofore have been enrolled, be, by the captain, or in his absence, the next commanding officer, of the beat, wherein he shall reside, enrolled in the company of such beat. That every captain, or commanding officer of a company, shall also enroll every person, or persons, who shall from time to time arrive at the age of sixteen years, or come to reside or sojourn within his beat, and without delay, notify such enrollment to each person so enrolled, by some inferior officer of the company; who, on oath, shall be a competent witness to prove

Persons to
be en-
rolled.

Disputes, how to be decided. such notice. That if any dispute shall arise with respect to the age, or ability to bear arms, of any person, it shall be determined by the captain or commanding officer of the company with right of appeal, to any person who may conceive himself aggrieved, to the colonel, or commanding officer of the regiment, whose determination in the case shall be final.

Equipments.

That every person so enrolled, and notified, shall within twenty days thereafter, furnish and provide himself, at his own expence, with a good musket or firelock, fit for service, a sufficient bayonet (unless he shall be provided with a good rifle) with a good belt, a pouch or cartouch box, containing not less than sixteen cartridges, suited to the bore of the musket or firelock, each cartridge containing a proper quantity of powder and ball, or in lieu of such pouch or cartouch box and cartridges, with a quantity of powder and ball respectively, disposed of in a powder horn and shot bag, and wadding equivalent to such cartridges, and two spare flints, a blanket and a knapsack, and shall appear so armed, accoutred and provided, when called out to exercise, or duty, as herein after directed, except that when called out to exercise only, he may appear without blanket or knapsack; and if any such person shall appear to the captain or commanding officer of the company, to be too indigent to arm accoutre and provide himself in manner aforesaid, he shall be furnished with arms and accoutrements, out of the monies to arise from the fines from time to time to accrue in the regiment to which he shall belong, and in case of deficiency thereof, out of the public magazines or stores of this State, by order of the person administering the government of this State for the time being.

Militia to be ar- ranged in brigades, etc.

II. That the commander in chief, for the time being, shall, by general orders, arrange the militia of this State into brigades regiments and companies, and, by and with the advice and consent of the council of appointment, appoint such and so many brigadiers general, and other officers, as he shall think most conducive to the public service; copies of such general orders to be filed in the office of the clerk of the county where the regiment, or company shall be.

Brigade major.

III. That each brigadier general, shall have one brigade major of his own choice, to rank as major in the militia, and receive pay on the certificate of his brigadier.

Officers.

IV. That each regiment shall have and be commanded by one lieutenant colonel, (except where a colonel has heretofore been appointed) and one major, (unless in cases where it shall be thought necessary to appoint two majors). That each company shall be officered with one captain, one first lieutenant, one second lieutenant, and one ensign, as commissioned officers, and by four sergeants, four corporals, one drummer and one fifer; and the staff of each regiment shall be, one adjutant, and one quartermaster, who shall respectively rank as first lieutenants; and the sergeants, corporals drummers and fifers, shall be appointed by the captains, or other commanding officers of the several companies; and if any person so to be appointed, shall refuse to accept the office to which he shall be appointed, he shall forfeit the sum of forty pounds, to be adjudged, levied, and disposed of, in manner as is herein after directed, with respect to fines for neglecting or refusing to appear to train and exercise, as is herein after mentioned.

Colors

V. That each regiment shall be provided with a standard or colours, at the expence of the field officers; and each company with a drum and fife, at the expence of the commissioned officers thereof.

Troops of horse.

VI. That there may be a troop of horse in each brigade, and a company of grenadiers in each regiment of foot, which may conveniently furnish the same. That the said troops of horse, and companies of

grenadiers, shall respectively be formed and composed of voluntiers, in the respective brigades and regiments, residing at such convenient distances from each other, that they may with ease and dispatch be called out for training, discipline, or other service. Provided, that no troop of horse shall be established without the consent of the brigadier; and that no grenadier company shall be established in any regiment, without the consent of all the field officers; and that no troop of horse, or grenadier company, shall exceed fifty men, officers included; and that no person shall hereafter enlist in any troop of horse, or grenadier company, without the consent of the commanding officer of the regiment in which he shall reside.

VII. That on every such enlistment of a voluntier; the captain of the Enlist-
troop of horse, or company of grenadiers, do immediately certify to the be certi-
captain of the beat, from which such voluntier shall enlist, the enlistment fled.
of the said voluntier.

VIII. That each trooper shall be equipped and provided with a good Equip-
servicable horse, at least fourteen hands high, a good saddle, housing, ments of
holsters, breast plate and crupper, a case of good pistols, a good, horse-
man's, sword, a pair of boots and spurs, and a carbine well fixed with a
good belt swivel and bucket, and a cartridge box to contain twelve
cartridges at least; and that each grenadier, shall be equipped and pro-
vided with a grenadier's cap, a good musket and bayonet, a broad
sword, a belt and a pouch or cartridge box; and so equipped and pro-
vided, the troopers and grenadiers, shall, respectively, be called out under
the direction of their respective officers, as is hereby required, with re-
spect to the rest of the militia.

IX. That each colonel or commanding officer of a regiment, shall, in Regimental parades,
the first or second week in April, and in the first or second week in
November, in every year, call out his regiment to his regimental parade,
which shall be the place in the district of the regiment the most con-
venient for that purpose; and having paraded the same, shall require
from the captain or commanding officer of every beat, in the regiment, a
return thereof, expressing the exempts and the absentees, and the causes
of the respective exemptions and absences; cause the said regiment, ex-
cept the exempts, thus paraded to be called by the company rolls, and
the arms ammunition and accoutrements of each man to be examined,
and the defaulters to be noted; and shall cause them to be sufficiently
exercised, trained and disciplined, for their instruction and improvement;
and shall within two weeks thereafter, make or cause a true regimental
return (excepting therein by name the exempts or absentees) to be made
to the commander in chief, for the time being; until a brigadier general
be appointed to the brigade to which the regiment shall belong. That
the captain, or commanding officer of each company, shall and may call
out his company to such place, within his beat, as shall be most con-
venient for that purpose, at least four times in every year, and shall cause
them when so called out, to be well and sufficiently exercised trained
and disciplined for their instruction and improvement.

X. That every commissioned officer of the militia, in this State, who Officers
shall omit or neglect to perform any of the duties, by this act enjoined on neglecting
him, of enrolling training or disciplining in and to the use of arms, the duties im-
militia of this State, or making perfect returns of the militia, or not call-
ing out to actual service the militia, or any part thereof, when necessary, posed by
and shall, if under the rank of a brigadier, be thereof convicted by a
brigade court martial from the brigade to which he shall belong, consist-
ing of at least thirteen members, (which court martial the brigadier is
hereby authorized and required to appoint, and direct to sit) and the sen-

tence thereon be confirmed in manner herein after mentioned, be, *ipso facto*, removed from his office, and reduced to do duty in the ranks as a foot soldier; any exemption from duty to the contrary in any wise notwithstanding.

Meeting of general and field officers to review sentences. XI. That the brigadier general, and the field officers of each brigade, shall, on the second Tuesday in January and the second Tuesday in June yearly and every year, meet together, at such town or place within the brigade as the brigadier general shall appoint; to which meeting

all sentences of courts martial in such brigade, not before confirmed or disallowed, shall be brought, and shall by the said brigadier general, or next commanding officer, and field officers, or the majority of them, be respectively confirmed or disallowed; upon determining all which the brigadier, or next commanding officer, shall sit as president; and shall immediately thereafter, particularly, report, under his hand, to the commander in chief all such sentences as shall be so confirmed; and all brigadiers general, for offences, not particularly provided for in this act, shall be tried by a general court martial, to be appointed by the commander in chief, and if on conviction, the sentence thereof be confirmed by such commander in chief, that upon such brigadier general shall be removed from his office. That all sentences of courts martial so confirmed shall be, by the commander in chief from time to time, laid before the council of appointment, to the end, that they may appoint others instead of the officers so found guilty.

Cashiered and re-signed officers to do duty as foot soldiers. XII. That every commissioned officer of the militia of this State who shall be cashiered, or who shall resign his commission, unless with the consent of the council of appointment, shall be obliged to do the duty of and in every respect be put on a footing with a private soldier, any thing contained in this act, to the contrary thereof notwithstanding.

Foot soldiers, penalty for not appearing. XIII. That every foot soldier of the said militia who shall neglect to appear when called out, without sufficient excuse, shall for every such offence forfeit the sum of eight pounds; and if he shall appear wanting any of his arms, ammunition or accoutrements, prescribed for him by this act, without sufficient excuse, he shall, for every deficiency, forfeit the sum of three pounds; and if any non-commissioned officer or private in any troop of horse shall be charged with either of the said offences, and shall not have sufficient excuse, he shall forfeit for the offence of not appearing the sum of sixteen pounds, and for every other of the said offences the sum of six pounds.

Fines, etc. XIV. That all fines to arise from offences, in a company only, shall be adjudged of and inflicted by the commissioned officers of such company, and shall be levied with costs by warrant under the hand and seal of the captain or commanding officer, directed to one or more of the sergeants of the said company, by distress and sale of the goods and chattels of the offender, and paid by the sergeant or sergeants to the said captain or commanding officer of the company; And that all fines to arise from the like offences upon the calling out of the regiment, shall be adjudged of and inflicted by the field officers of the regiment, or the major part of them and shall be levied with costs by warrant, under the hand and seal of the colonel or commanding officer of the regiment, directed to one or more of the serjeants of the said regiment, by distress and sale of the goods and chattels of the offenders respectively, and by him or them paid to the said colonel or commanding officer; all which fines shall by him be paid over to the quarter master of the said regiment, to be by him laid out under the direction of the field officers of the said regiment for arming accoutring and furnishing with ammunition the privates thereof in manner aforesaid. And where in any case

CHAP. 55.]

THIRD SESSION.

241

no goods or chattels shall be found, then on such warrants, to be issued in either of the cases above mentioned, the serjeant or serjeants shall take the body of the offender and him convey to the common goal of the county, there to be kept in safe custody, until he pay the said fine and costs. And the goaler is hereby required and commanded to receive such offender, with the warrant, and him safely to keep until he shall have paid his said fine and costs, which goaler after receiving the same, on demand by such serjeant or serjeants, pay the same to him or them, and thereupon such fine shall be disposed of in manner herein before directed for the disposal of fines.

XIV. That all officers in the militia shall take rank according to the ^{Rank.} dates of their commissions. Provided that where officers now hold the same offices in the militia which they held under the late government before the revolution or under the convention before the organization of the present government and have since taken out new commissions for the same office such officers shall take rank from the dates of their former, and not from the dates of their last commissions, any thing herein contained notwithstanding.

XV. That from all returns to be made by the colonels or commanding officers of regiments, respectively, to the respective brigadiers general, brigade returns shall without delay be made to the commander in chief.

XVI. That one brigade, regiment, or company of foot (except ^{Now com-}
grenadiers who shall form on the right of the regiment) shall not be con-
^{panies,}
sidered as older than, or having rank or preference of, the other, but ^{etc.,}
each brigade, regiment or company shall be posted and disposed of in ^{posted,}
the line on command, as the commanding officer on the spot, shall on ^{etc.}
every occasion or emergency think proper.

XVII. That on every emergency of a sudden invasion by the enemy, ^{Militia to}
or insurrection, within this State, the commanding officer of any brigade, ^{be called}
regiment, or company, as the cases may require, shall immediately draw ^{out in}
out the militia under his command and with them oppose the enemy or ^{cases of}
the insurgents, and that all brigades, regiments, troops and companies, ^{emergency.}
shall from time to time be subject to general, brigade, regimental, and
company, orders, as is usual according to the course and practice of war
for suddenly taking the field for the purpose aforesaid. And all such
orders, by any officer under the rank of commander in chief, shall be
reported in writing by express, to the commander in chief for the time
being, and also to the colonel or commanding officer of the regiment,
if given by one under his command, and if given by the colonel or com-
manding officer of the regiment, shall be reported to the brigadier gen-
eral, and if given by the brigadier general to the commander in chief,
all which reports shall be acted upon by the respective persons to whom
the same shall respectively be made as the emergency may require, and
by such persons respectively be reported, with their respective doings
thereon, to their next superior officer, and so on in succession till they
reach the commander in chief.

XVIII. That every person in the militia, whether officer or private, ^{Officers}
when called out into actual service, either to act separately or in con- ^{and pri-}
junction with the troops of the United States of America, shall from the ^{vates}
time of his receiving due notice thereof from his commanding officer, ^{called into}
until he be properly discharged from that service, if and as long as he ^{actual ser-}
shall perform the same, and until properly discharged or dismissed, be ^{vice sub-}
allowed pay, subsistence and rations, according to the Continental estab- ^{ject to}
lishment, and on every neglect or refusal to march, after such notice as ^{rules and}
aforesaid, shall be dealt with as a deserter, or having marched out, on ^{articles of}
war.

such notice, and before his proper discharge or dismission, shall commit any offence, or shall, before such discharge or dismission, desert from the corps to which he shall belong, or from his post, shall for every such offence be subject to the rules and articles of war, established by the congress of the United States of America, for the better government of the troops in the service of the said United States; which shall be put in execution against the offender by the militia orders and authority, in like manner as the same are put in execution in the army of the said United States against offenders therein, by proper orders and authority thereof; and that in all such cases the governor or commander in chief for the time being, and all militia officers subordinate to him, shall and may enjoy and exercise all the powers by the said rules and articles of war, given to the commander in chief of the army of the United States and the several officers subordinate to him in the said army; and that upon notice left at the usual place of abode of any offender, containing the charge against him, and the time and place when and where the court martial will be held for his trial, and due proof made to such court of the service of such notice, it shall be lawful for such court to proceed to the trial of such offender in like manner as if he had appeared, and plead not guilty to the charge.

In case of
fines of
offender
may be
sentenced
to serve in
army.

XIX. That in every case where a fine shall be imposed by a court martial, in consequence of this act it shall and may be lawful for such court martial to direct the offender (in case of the non payment of such fine) to serve in, and do duty with, any one of the regiments of the army of the United States of America raised by the direction and under the authority of this State, as a private soldier thereof, for and during such time as the court martial shall adjudge, not exceeding six months.

Power to
order out
enrolled
militia, etc.

XX. That the commander in chief for the time being shall have power and authority, from time to time in his discretion, to order out the whole or any part of the associated exempts and enrolled militia of this State into actual service, not only for the defence of this State, but to give assistance to any other of the United States, or to reinforce the army of the United States or any part thereof, and that the associated exempts shall be called out, in rotation, so as to do their equal proportion of duty with the enrolled militia, as nearly as may be, in the discretion of the commander in chief, or brigadier general within whose command the said associated exempts do reside, and to cause each of them to march out of this State for either of the said purposes. Provided always that none of the enrolled militia of this State or associated exempts shall be compelled to do duty out of the same for a greater space of time than forty days at any one time; and provided also that not more than one third part of the militia and associated exempts of this State shall, on any occasion or emergency, be required or ordered to march out of this State, any thing herein contained to the contrary thereof in any wise notwithstanding.

Courts
martial,
etc.

XXI. That for the several purposes aforesaid general, brigade and regimental, courts martial and courts of inquiry shall from time to time, as cases may require, be instituted and formed, and general brigade and regimental orders from time to time given, upon the plan directed by the aforesaid rules and articles of war, and by the officers in rank respectively in the militia equal with those respectively authorized for the purpose by the said articles of war, in respect whereof the governor or commander in chief and all militia officers respectively shall be considered as on the same footing as the general and commander in chief of, and as the officers in their respective ranks belonging to, the army of the said United States; Provided always that no commissioned military

officer, except when questioned upon the aforesaid rules and articles of war, shall be sentenced or adjudged to any other punishment than to be broke and rendered incapable of any military office whatsoever within this State; and provided also that it shall and may be lawful for a court martial, whenever they shall conceive it proper, to fix and determine a fine for which any person, adjudged to receive corporal punishment, may commute such punishment; and if the said fine shall be paid, within the time by the court martial for that purpose limitted, the said person shall be accordingly acquitted of such corporal punishment. That all such fines shall be paid into the hands of the eldest militia officer, from this State, on the spot, and shall by him be paid into the hands of the officer commanding such regiment, for the purpose of providing a sufficient quantity of arms and ammunition for the use of the said regiment, and that the overplus be paid by the said commanding officer into the treasury of the State.

XXII. That a roll of the privates of each company shall be made, and divided, by the captain or commanding officer of the company, into eight classes, as nearly equal in number to each other as conveniently may be, and a serjeant or a corporal shall be allotted on the roll, by the captain or commanding officer, to each class; which said eight classes, in each company, shall on detachments or drafts, in pursuance of this act, perform their tour of duty in numerical order; and to ascertain which class shall take the first and which the second tour of duty on detachment, and so on to the eighth class, eight slips of paper, numbered respectively from one to eight inclusively, shall be so rolled up, or otherwise closed as to conceal the number, and being put into a hat, box, or vessel, and well shook together in the same, the serjeant or corporal of each class shall, in the order to be directed by the captain or commanding officer, in behalf of his class, take out one of the ballots; and the number drawn by the serjeants and corporals, respectively, shall determine their respective tours of duty of the several classes; The class which draws number one to have the first tour of duty, and so on in numerical order throughout all the eight classes, determining their respective tours of duty; and in the same numerical order shall the eight classes continue their rotation without any new balloting, until the numbers respectively contained in each class shall, by the events of war or other accidents, become very unequal, when there shall be a new balloting as above directed.

XXIII. That when and as often as the classes shall be thus fixed, each captain or commanding officer of each company shall form a roll consisting of the eight classes and containing the names of the men in each class, with the names of the serjeant and corporal respectively prefixed to each class, and numbered according to the order of balloting, which he shall keep for his own use, guidance, and direction, and shall notify each serjeant, corporal, or private, to what class he shall belong, and shall return a copy thereof, with the list of his commissioned officers prefixed thereto, without delay, to the colonel or commanding officer of the regiment, who shall enter all such, and every other company return, in a book to be kept by him for the purpose.

XXIV. That the colonel or next commanding officer of the regiment shall, on receipt of all the classed returns of the companies in his regiment, convene together all the commissioned officers in his regiment, and proceed in like manner to fix by ballot the respective tours of duty of all commissioned officers under the rank and degree of a field officer, from and including number one to and including such number as shall be equal to the number of companies in the regiment; which balloting

shall be made separately and severally in the four several lines of office, and be entered by the colonel or commanding officer in his said book, as also the quota of each detachment both as to officers and privates, in order thereby, from time to time, to ascertain the rotation of the service of both, which shall ever be determined by such quotas respectively.

Majors,
etc., to
decide
tours by
lot.

XXV. That if there be two majors belonging to a regiment they shall decide by lot which of them shall take the first tour of duty, and the order or tour of duty thereby established shall ever after govern.

XXVI. That to establish the rotation of duty, on detachments, among the several field officers in the regiments composing a brigade, the colonels, lieutenant colonels, and majors, shall without delay meet together and decide the same by several and separate lots in numerical order as aforesaid, in the several lines of office, which being done, a roll thereof shall immediately be made and subscribed by them all, and returned to the brigadier general of the brigade.

XXVII. That to a brigadier general's command of detachments the commander in chief shall appoint such brigadier general as shall in his judgment appear most proper for advancement of the service.

XXVIII. That every private shall be allowed to substitute, on detachments, an able bodied private in his stead, who shall nevertheless take his own tour of duty in the order wherein it shall have been fixed as aforesaid. That in case, by sickness or unavoidable accident an officer or private shall be prevented from taking his tour of duty on any detachment, the next to him on the respective rolls of detachment, without regard to classes with respect to privates, shall fill his place, and the person so prevented shall in return take the proper next tour of duty on detachment of him so filling his place; and all classings as aforesaid shall go on in rotation in the several numerical orders above mentioned as long and as often as the public service shall require the same. Provided always that the commander in chief shall and may, from time to time, in his discretion, order out on detachment as great a part of any brigade, regiment, troop of horse, or associated exempts, or the whole militia into actual service, and also that the like discretionary power may, on sudden emergencies, and without waiting for the order of his superior officer, be exercised by the commanding officer of any brigade, regiment, troop of horse, or company, respectively, over each brigade, regiment, troop of horse, or company, giving notice thereof, in writing, without delay together with all things relating thereto as well to his commanding officer as to the commander in chief for the time being.

Exempt
persons.

XXIX. That all persons, under the age of sixty years, who have held civil or military commissions, and are not or shall not be re-appointed to their respective proper ranks of office; and all other persons, between the age of fifty and sixty years, who have associated and elected their officers, or shall hereafter associate themselves, shall be exempted from serving as part of the enrolled militia. That all such persons, who have not yet associated, shall form themselves into voluntary associated regiments, or companies, according to their number in each respective county, and recommend their own officers, and that all such associated regiments, or companies, shall make returns thereof respectively to the commander in chief for the time being, without delay, who with the advice of the council of appointment shall issue commissions to them accordingly in default of which returns, they shall respectively do duty in the ranks with the militia, of the beat within which they shall respectively reside, until they shall respectively associate as aforesaid. That the substance of such associations shall be, that the associators will sev-

Brigadier
general to
be ap-
pointed to
command.
Substi-
tutes.

In case of
sickness,
etc., next
on roll to
perform
tour of
duty.

erally on all occasions, obey the orders of their respective commanding officers, and will in cases of invasion or incursions of the enemy, or insurrections, march to repel the enemy or suppress such insurrections, in like manner as the enrolled militia are compelled to do, so that they shall not, when called out in detachments, be annexed to any other regiment, or company, or be under the immediate command of any other than their own officers, but be deemed and considered as a separate and distinct corps, and that when such associated exempts shall be called into actual service they shall be subject to the orders and command of any and every officer of superior rank to such officer of associated exempts.

XXX. That every person, an inhabitant of this State, subject by this act to military duty in the militia, who shall remove out of the limits of the regiment or corps in which he shall be commissioned, associated, or enrolled, and sojourn, or be within the limits of any other regiment, or corps, shall be subject to drafts, and be obliged to do duty in the regiment, or corps, within the limits of which he shall so happen to be, unless he shall give a satisfactory account to the commanding officer of the said regiment, or company, that he has not absconded from the corps to which he belongs in order to avoid being drafted or performing other military duty.

XXXI. That the lieutenant governor, members of the senate and assembly, and their several clerks, and all judicial officers, the secretary of this State and two of his deputies, the treasurer, the auditor general, and the attorney general of this State, the clerks and register of courts and the county clerks, and sheriffs and their respective deputies not exceeding one, and the coroners not commissioned in the militia, all county treasurers and all ministers of the gospel, and all physicians and surgeons except in their several and respective professions, and callings, all public school masters actually engaged for twelve months, all collectors, all ferry men licenced by the governor or commander in chief for the time being, all post masters, and post riders shall notwithstanding their being respectively able bodied, above sixteen and under sixty years of age, and all such persons in the service or employ of the United States, or of this State, or engaged or employed in any manufacture or business, so that it would be for the good of the public that they should be exempted, who shall procure special exemptions from the commander in chief of the militia of this State for the time being, under his hand, shall respectively be exempted from training and doing duty in the militia, but shall nevertheless be armed accoutred and provided as above mentioned.

XXXII. That all those male persons, between the ages of sixteen and sixty years, who are or shall be of the people called Quakers, upon producing a certificate from one of their quarterly meetings that he or they is or are of the society called Quakers, shall be exempted from all military service whatsoever, to which they would respectively be subject by this act, were they not respectively of the people called Quakers: And for such exemption, shall yearly and every year, severally pay the sum of eighty pounds, in lieu of all military service whatsoever, required by this act, except services on detachments and calling out the militia for actual service by virtue of this act in which cases each of them shall annually pay the sum of one hundred and sixty pounds. And for the purpose of levying the said annual sums, the captain or commanding officer of every beat, shall annually return to the respective supervisors of the ward, town, manor, precinct or district, wherein he shall reside, a list of such Quakers as aforesaid, residing

within his beat; and the respective supervisors of the county, at either of their meetings, shall make out a separate tax list thereon, with a warrant to be issued by them to the collectors respectively for levying the same, of the form, as near as may be agreeable to the form of the warrants to collect the taxes for defraying the contingent expences of the county, and in default of goods and chattles of any Quaker, whereon to levy the said sum or sums, the warrant for levying the same shall authorize the collector to commit him to the gaol of the county, and the keeper of the said gaol, is hereby required to receive and detain him in safe and close custody, until the said sum or sums shall be paid to the said collector, and the said collector; shall respectively pay the monies they shall so from time to time collect, into the county treasury, from whence they shall be paid by the several county treasurers into the treasury of this State.

Act not to affect persons who have furnished substitutes XXXIII. That this act, or any thing in the same contained, shall not in cases of drafts or detachments of the militia, affect any person, who has furnished a sufficient able bodied man for service in one of the five Continental battalions raised under the direction of this State, pursuant to law, unless the time of such service shall have expired.

Notice, what deemed sufficient. XXXIV. That in all cases where notice is required by this act, verbal notice to the party himself, or left at his usual place of abode, with a person of the years of discretion, by any commissioned or non commissioned officer of the company, shall be deemed a legal and sufficient notice.

Expenses of officers attending courts martial to be paid out of fines, etc. Whereas the militia officers are frequently put to great expence in attending general and regimental courts martial, and courts of enquiry.

XXXV. Be it therefore enacted by the authority aforesaid, That the same shall respectively be ascertained from time to time, by the president of such courts respectively, and be paid from time to time, out of the fines arising from each regiment, or corps of exempts, and which are by this act required to be paid, to the commanding officer of the regiment, to be by him applied as aforesaid, and such certificates shall respectively be delivered, from time to time, by the respective officers entitled to receive the several fines imposed by this act, to the commanding officer of the regiment, together with the remaining balance of such fines, that every such officer so receiving such fines respectively, as by this act are made payable as aforesaid, shall, from time to time, as the same shall accrue and be received, account for and pay the same to the said commanding officer, in manner aforesaid, at the expiration of every three months, to commence thirty days after the passing of this act. That the respective colonels or commanding officers of regiments shall account under oath for the expenditures and application of the said fines, at, and to, the meeting of field officers by this act, directed to convene in January and June in every year, and that the ballance be paid into the treasury of the State.

Officers to be reimbursed moneys expended. XXXVI. And whereas the commanding officers of brigades and regiments are frequently on extraordinary emergencies, obliged to disburse of their own monies for paying expresses, for reimbursement thereof, the treasurer of this State shall, and is hereby required, from time to time, to repay the same out of any monies in the treasury, Provided that the accounts thereof respectively shall be first sworn to before a justice of the peace of any county within this State.

Ammunition to be furnished. XXXVII. Be it further enacted by the authority aforesaid, That the commissioner of military stores, of this State, shall on application of any or either of the colonels or commanding officers of regiments of the militia of this State, by a draft in writing on the said commissioner, in favor of the quarter master of the regiment, with a warrant endorsed

from the person administering the government of this State for the time being, furnish such quarter master, or quarter masters, with such quantities either of loose ammunition, or made up in cartridges, for the said regiment or regiments, as shall be directed by the said warrant, the said quarter master or quarter masters paying for the same, the first cost thereof, and the expence of making up the same, which monies the said commissioner shall from time to time lay out again, in the purchase of ammunition.

XXXVIII. And be it further enacted by the authority aforesaid, That if any person be wounded or disabled upon assisting in repelling any invasion or an incursion of the enemy, or suppressing an insurrection, or any other legal military service, he shall be subsisted and provided for at the expence of the State, during such disability, except such persons whose cases are already provided for by the several acts of the congress of the United States of America, making provision for persons that may become disabled while in the service of the United States. That each person who hath been, or shall hereafter be so wounded or disabled, and whose cases shall not be provided for as aforesaid, shall be entitled to such partial or permanent allowance, as shall be adjudged by the field officers of the regiment (not exceeding the allowances granted by the acts of congress aforesaid) and which adjudication, being confirmed by the commander in chief for the time being, he shall thereupon issue duplicate warrants under the privy seal of the State, upon the treasury for the payment of the sum or sums so to be adjudged to the person so wounded or disabled; and the treasurer upon being served with one of the said duplicates, shall out of any monies which may then be in the treasury, pay to the several persons in whose favor such warrants shall be issued, the sum or sums to be specified, and in such manner as shall be directed by the said warrants respectively.

XXXIX. And be it further enacted by the authority aforesaid, That the act now in force, entitled, "An act for regulating the militia of the State of New York," passed on the third day of April one thousand seven hundred and seventy eight, the act entitled "An act, to amend an act, entitled An act, for regulating the militia of the State of New York" passed the thirtieth day of June one thousand seven and seventy eight, and the act, entitled "An act, farther to amend an act, entitled An act, for regulating the militia of the State of New York, and other purposes therein mentioned," passed the ninth day of October, one thousand seven hundred and seventy nine, shall be, and are hereby respectively continued in full force, until the third day of April next, any thing contained in in this act notwithstanding.

And whereas the proceedings of sundry courts martial, are not fully compleated, as also many delinquents not yet tried.

XL. Be it therefore further enacted by the authority aforesaid, That regimental courts martial shall and may take cognizance of, try and determine, all such offenders as have been guilty of any offences against the before mentioned acts: Provided, that no sentence of such court shall extend to corporal punishment of every kind whatsoever except imprisonment, and provided also, that no such court shall proceed to any such trial, but by and with the consent of the commander in chief, or a general officer of this State.

XLI. That proceedings or trials at courts martial, may be carried on at any time or times, the seventh article of the fourteenth section of the said articles of war, whereby such proceedings or trials are prohibited from being carried on, except between the hours of eight in the morning, and three in the afternoon, to the contrary notwithstanding.

Articles of war to be read. XLII. That the commanding officers of the several companies, shall cause the said articles of war, to be read and published at least twice in every year, at the head of their respective companies.

XLIII. *And be it further enacted by the authority aforesaid,* That this act shall continue and be in force from the third day of April next, until the first day of March, one thousand seven hundred and eighty two, and no longer.

CHAP. 56.

AN ACT for the more speedy trial of felonies without benefit of clergy for subjecting the accessories to such felonies, to a like punishment, with the principals, and for the trials of such accessories, although the principals may not be convicted.

PASSED the 11th of March, 1780.

Preamble. WHEREAS murders, burglaries, thefts and robberies have been of late so frequently committed within the State, that the public peace and safety require the most speedy and effectual mode of punishing, and preventing the same in future.

Commiss-
sions for
courts
named to
be made
out. *Be it therefore enacted by the People of the State of New York, rep-*
resented in Senate and Assembly, and it is hereby enacted by the authority of
the same, That commissions of oyer and terminer and general gaol delivery, shall, as soon as conveniently may be, after the passing of this act, be made out, if the same are not already made out, for the counties of Albany, Ulster, Westchester, Dutchess, Orange, Tryon and Charlotte respectively, to continue and be in force respectively, for one year from the respective dates thereof, which commissions shall be lodged with the clerk of the courts of oyer and terminer and general gaol delivery.

Precepts
to be
issued for
summon-
ing grand
juries, etc. *And be it further enacted by the authority aforesaid,* That whenever and as often as any person or persons, shall be apprehended and in actual custody, charged with any of the offences aforesaid, heretofore committed or that may hereafter be committed, it shall and may be lawfull, and it is hereby declared to be the duty of each and every of the judges of the supreme court of judicature of this State, on report being made to him or them in writing by the several sheriffs of the said counties, that any person or persons for the offences aforesaid are in actual custody, immediately to issue a precept in his or their name or names and under his or their hand or hands and seal or seals and as near as may be agreeable to the form of precept issued by the justices of the courts of oyer and terminer and general gaol delivery in this State, to such sheriff, for summoning a grand and petit jury for, and proclaiming, a court of oyer and terminer and general goal delivery, at such time and place in the said county as the said judge or judges shall appoint, which precept is hereby declared to be good legall and effectual to all intents and purposes whatsoever, although there may not be fifteen days between the test and return thereof, and such sheriff is hereby required and commanded immediately to proceed to the execution thereof without any delay, And that all summonses, services, notices and other duties commanded by the said precept to be done and performed by the said sheriff are hereby declared to be legally and well and effectually done and performed, if done and performed on or before the day preceding the day appointed for the holding the said